

Appl. No. 10/087,201
Amdt. dated March 26, 2004
Reply to Office Action of January 29, 2004

PATENT

REMARKS/ARGUMENTS

STATUS OF APPLICATION

Claims 1-5, 7-12, and 14-20 are pending in this application. Claim 6 and 13 were canceled. Claims 1, 7, 11 and 17 were amended. Support for the amended claims can be found in the specification. No new matter has been added.

Claims 1-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,847,704 to Hollister A. Hartman ("Hartman") in view of U.S. Patent 5,801,667 to Shimizu et al. ("Shimizu").

Reconsideration and allowance of the claims are respectfully requested in light of the amendments to the claims and following remarks.

THE CLAIMS

Applicants respectfully submit that there is no motivation to combine Hartman with Shimizu. Examiner states, in part, "it would have been obvious to one having ordinary skill in the art to employ the teaching of Shimizu in the system of Hartman for using an annular configuration and giving an appearance of rotation about a fixed axis based upon the velocity information as the speed of the automobile changes." (Office Action: p. 2). However, Examiner has failed to provide any motivation to combine the two cited references. Nowhere does Hartman or Shimizu suggest the desirability of such a combination. As understood by Applicants, the Examiner is relying on the alleged fact that the claimed invention is within the capabilities of one of ordinary skill in the art. However, this alone is not sufficient to establish a *prima facie* case of obviousness. (See MPEP 2143.01).

Applicants respectfully assert that the rejection based on the combination of the references benefits from the exercise of hindsight. Federal Circuit "case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references." *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999) (citations omitted). Applicants respectfully assert that the Examiner has not made the required showing. To guard against the tempting trap of hindsight, the evidence of a suggestion, teaching, or

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motivation to combine "must be clear and particular." *Dembiczak*, 50 U.S.P.Q.2d at 1617 (citation omitted). "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" *Id.* (citations omitted).

The Examiner has not pointed to any "clear and particular" suggestion or motivation to combine the references in the manner suggested by the Examiner. Instead, the Examiner bases the rejection on the broad conclusory statement that it would have been obvious to employ the teaching of Shimizu in the system of Hartman for having a plurality of annular configuration and providing a plurality of velocity information as the speed of the automobile changes. Indeed, the Examiner merely alleges that "[t]hose skilled in the art may recognize that those annular structures can be utilized with the velocity or speed of the vehicle for showing a plurality of speed in the plurality of graphical displays in the plurality of annular structure as desired which is disclosed in fig. 1, col. 1, lines 11-41" (emphasis added). The law requires much more certainty, i.e., "may recognize" is not adequate, "would have recognized" is needed. Moreover, Applicants believe even the assertion that those skilled in the art "may recognize" the possibility of combining the references is not well founded.

In truth, both Hartman and Shimizu teach away from the present invention as claimed. For example, a primary concern in Hartman is the substantial amount of display area occupied by required dials, such as a speedometer, odometer, and fuel level guage. Hartman recites, "[a]ccordingly, a substantial amount of screen space can be taken up by the required dials. Prior to this invention, two approaches to solving this problem have been proposed. ... The reduced display screen area that is available for other displays causes over-simplification of screen displays, which may result in requiring a driver to page through a series of menus for any given function. This result is undesirable as generally discussed above." (Hartman: col. 1, lines 34-51). In the context of Hartman, it would be nonsensical to increase the screen area occupied by a speedometer by providing two graphical display portions each comprising its own annular structure as claimed by the Applicants. It would only exacerbate the problem addressed in Hartman.

With respect to Shimizu, it teaches the unsuitability of using rotational drum 7 which Examiner analogizes as an annular structure. Shimizu recites "... it would take a long

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time from the start of the rotation of the rotational drum from the driver to perceive the variation of the alarm display due to the rotation of the rotational drum. In other words, a recognition time of the alarm display is long in the conventional display device." (Shimizu: col. 1, lines 52-61). Shimizu is decidedly against using rotational drum 7 due to long recognition times. Examiner unreasonably relies on Shimizu to suggest using two annular structures. Moreover, each annular structure would be more complicated with a speed indication as opposed to mere colors or patterns. Clearly, this would increase the already long recognition times discussed in Shimizu.

For the foregoing reasons, Applicants submit that Shimizu and Hartman, individually and in combination, do not teach or suggest the present invention as claimed. Claim 1, 11, and 19 should be allowed for at least this reason. Claims 2-5, 12, 14- 18, and 20, which depend claims 1, 11, or 19, should be allowed for at least a similar rationale as discussed for claims 1, 11, or 19, as well as the additional limitations they recite.

In addition, with respect to claims 7 and 20, Applicants respectfully submit Shimizu and Hartman, individually and in combination, do not teach or suggest that "the second graphical display portion is external to the first graphical display portion." Hartman clearly shows one display portion includes the second display portion, which is necessary since both display portions share the same speed indication (i.e., the same needle). As a matter of fact, Examiner stated "Hartman clearly teaches ... a speedometer dial (64) for showing both miles per hour and kilometer per hour ..." Shimizu only shows one graphical display portion (i.e., speedometer 3) for outputting a first current speed. In support of Examiner's rejection, Examiner states "the first and second of the graphical display portion must be sized differently in order showing their speed informations [sic] could be recognized by the skilled in the art as disclosed in the reference of Shimizu." (Office Action: p. 5 and 11). However, the cited passages in Shimizu do not support Examiner's assertion. Furthermore, Applicants are uncertain as to how having differently sized graphical display portions relate to the notion that the second graphical display portion is external to the first graphical display portion as claimed.

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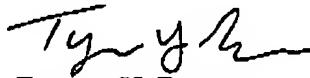
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,


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